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BEAU HODGES

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

BEAU HODGES, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 3:13-CV-1128-WHO

**JOINT STIPULATION AND
ORDER TO EXTEND MEDIATION
DEADLINE AND SET BRIEFING
SCHEDULING FOR MOTION TO
DISMISS SECOND AMENDED
COMPLAINT UNDER L.R. 6-2**

Complaint Filed: March 13, 2013
Trial Date: None set

1 WHEREAS, the Court's August 12, 2013 Order granted Defendant Apple's Motion to
2 Dismiss and Motion to Strike with leave to amend;

3 WHEREAS, Plaintiff Beau Hodges ("Plaintiff") filed his Second Amended Complaint in
4 the above-entitled action on September 25, 2013;

5 WHEREAS, the current deadline for completing private mediation, as set by the Court's
6 June 24, 2013 Order, is October 7, 2013;

7 WHEREAS, the Parties have selected the Honorable Edward A. Panelli (Ret.) of JAMS as
8 the private mediator for the upcoming mediation;

9 WHEREAS, the next date on Justice Panelli's calendar when the Parties are jointly
10 available is November 6, 2013, and the Parties have agreed to conduct the mediation on
11 November 6;

12 WHEREAS, the parties have agreed to a briefing schedule for Apple's contemplated
13 motion to dismiss the Second Amended Complaint ("Motion"), as follows: (1) Apple shall file its
14 Motion on or before October 16, 2013; (2) Plaintiff shall file any opposition to the Motion on or
15 before November 11, 2013; (3) Apple shall file any reply to the Motion on or before November
16 20, 2013; and (4) Apple will notice the hearing on the Motion for December 4, 2013.

17 WHEREAS, although the parties have agreed to the above briefing schedule, Plaintiff
18 believes that any dismissal motion practice should be deferred until after the November 6, 2013
19 mediation session, and therefore Plaintiff reserves its rights to seek to stay any such briefing until
20 after the mediation;

21 WHEREAS, this stipulation does not constitute any waiver of Plaintiff's rights to seek to
22 stay any dismissal motion practice until after the mediation session;

23 WHEREAS, although the parties have agreed to the above briefing schedule, Plaintiff
24 believes that any such motion practice should be deferred until after the November 6, 2013
25 mediation session, and therefore Plaintiff reserves the right to seek to stay any such briefing or
26 extend the briefing schedule until after the mediation;

1 WHEREAS, the parties agree that this stipulation does not waive or otherwise impact
2 Plaintiff's right to seek to stay any motion practice or extend the briefing schedule until after the
3 mediation session in any way;

4 THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the
5 Parties, through their respective undersigned counsel of record, to extend the deadline to complete
6 private mediation until November 7, 2013. Furthermore, it is hereby stipulated by and among
7 Plaintiff and Defendant and through their counsel of record that Apple shall have until October
8 16, 2013 to file its Motion, Plaintiff shall have until November 11, 2013, to file any opposition to
9 the Motion, Apple shall have until November 20, 2013, to file any reply to the Motion, and Apple
10 will notice the hearing on its Motion for December 4, 2013.

11 IT IS SO STIPULATED.

12
13
14 Dated: October 7, 2013

RICHARD B. GOETZ
MATTHEW D. POWERS
O'MELVENY & MYERS LLP

15
16 By: /s/ Matthew D. Powers
Matthew D. Powers

17 Attorneys for Defendant
APPLE INC.

18
19 Dated: October 7, 2013

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23 By: /s/ Adam J. Levitt
Adam J. Levitt

24 Attorneys for Plaintiff
BEAU HODGES

ATTESTATION OF FILING

Pursuant to General Order No. 45, Section X(B) regarding signatures, I, Matthew D. Powers, hereby attest that concurrence in the filing of this Joint Stipulation and [Proposed] Order to Extend Mediation Deadline and Set Briefing Schedule for Motion to Dismiss Second Amended Complaint under L.R. 6-2 has been obtained from Adam Levitt with conformed signatures above.

Dated: October 7, 2013

By: /s/ Matthew D. Powers

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ORDER

The Court having considered the Joint Stipulation and Order to Extend Mediation Deadline and Set Briefing Schedule for Motion to Dismiss Second Amended Complaint under L.R. 6-2 submitted by the parties, and good cause appearing:

1. The Stipulation is approved;
2. The parties shall have until November 7, 2013, to complete private mediation;
3. Apple shall have until October 16, 2013, to file its Motion to Dismiss Second Amended Complaint or otherwise respond to the Second Amended Complaint (the "Motion");
4. Plaintiff shall have until November 11, 2013, to file any opposition to the Motion;
5. Apple shall have until November 20, 2013, to file any reply to the Motion;
6. Apple shall notice the hearing on its Motion for December 4, 2013; and
7. This Order is without waiver of Plaintiff's rights to seek to stay the above briefing schedule until after completion of the mediation session.

IT IS SO ORDERED.

DATED: October 9, 2013



Hon. William H. Orrick
UNITED STATES DISTRICT JUDGE